

REMARKS

Notice of Non-Compliant Amendment

In response to the Notice of Non-compliant Amendment issued September 29, 2003, applicants resubmit the amendment from the Reply of September 17, 2003. In the present submission, the status of each claim is provided.

The Amendments

Claims 1 and 2 are amended to use language in accordance with conventional US practice, and to include in the list of A groups the group of the elected species. See, e.g., the Examples. See also claims 13, 14, and 17-20. Claims 1 and 2 are also amended to recite that the compounds contain at least one -OA group selected from certain groups. See the list of groups presented at pages 4-5. Claims 3 and 4 are amended to correct formula II by changing R⁶ to R⁵. See, e.g., page 6, lines 1-4. Claims 7 and 8 are amended to expressly set forth formula II. Claims 11 and 12 are amended to delete the “in particular” phrase. See new claims 30-31.

Claims 13 and 14 are amended to be in independent form. Claims 15 and 16 are converted into method of preparing Jepson claims. Claims 17, 18, 19 and 20 are converted into independent method Jepson claims. Claims 22 - 23 and 32-33 are directed to further compound aspects of the invention. See, e.g., the examples. Claims 24-27 are similar to claims 17 -20, except that they recite the formula I of original claim 1. New claim 28 recites certain A groups. See, e.g., pages 4-5.

Rejections Under 35 USC §101 and §112, second paragraph

By the above amendments, claims 1 and 2 are amended to delete the “formed by” and “can stand for” phrases, although this language is sufficiently definite to one of ordinary skill in the art. Claims 3 and 4 are amended to correct the obvious typographical error in formula II. Claims 11 and 12 are amended to delete the superfluous “in particular” phrase. Finally, claims 17-20 are converted from “use” claims to “method” claims. Withdrawal of the rejection is respectfully requested.

Claims 15 and 16

Claims 15 and 16 are method claims and thus are not substantial duplicates of compound claims 1 and 2.

Rejection Under 35 USC §102

Claims 1-10 and 13-21 are rejected as being anticipated in view of Shin et al. This rejection is respectfully traversed.

The rejection relies on an abstract of the Shin et al. article. A copy of the complete article is filed herewith. Shin et al. disclose certain 18 chrysin derivatives. Referring to Scheme 1 and compounds 14-19, Shin et al. describe compounds having a substituent R-CO-O- wherein R is acetyl salicylyl, benzyl, cinnanyl, 4-methoxycinnanyl, tolyl, or fluorophenyl. These compounds are tested for their hypoglycemic activities. See Table 1.

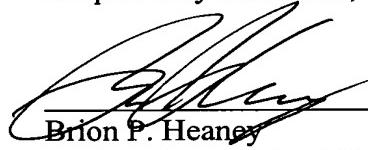
Shin et al. fail to disclose or suggest compounds in accordance with applicants' compound claims. Furthermore, Shin et al. fails to disclose or suggest the method of treatments recited in applicants' claims. Thus, Shin et al. does not anticipate applicants' claims. Withdrawal of the rejection is respectfully requested.

FR 2687572

FR '572 was cited during prosecution of the corresponding EP application. FR '572 discloses compounds of formula I and II (see page 4) wherein R is a -CO-phenyl group in which the phenyl ring is substituted in the 3, 4, and 5 positions by OH. FR '572 does not disclose compounds in accordance with applicants' invention.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Brion P. Heaney
Registration No. 32,542
Attorney for Applicants

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, Virginia 22201
Telephone: (703)243-6333
Facsimile: (703) 243-6410
Attorney Docket No.: IBHWH-12

Date: October 8, 2003